

FILED BY **HH**
Deputy Clerk
Jun 19, 2018
STEVEN M. LARIMORE
CLERK U.S. DISTRICT CT.
S.D. OF FLA. MIAMI

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

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June 19, 2018

Steven M. Larimore
U.S. District Court
400 N MIAMI AVE
MIAMI, FL 33128-1810

Appeal Number: 16-10552-GG
Case Style: Juan Salinas, et al v. Sue Ramsey, et al
District Court Docket No: 1:03-cv-22046-KMW

The enclosed order has been ENTERED.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Joe Caruso, GG
Phone #: (404) 335-6177

MOT-2 Notice of Court Action

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

No. 16-10552-GG

JUAN A. SALINAS,
LUCILA FUENTES,

Plaintiffs - Appellants,

versus

SUE ANN RAMSEY,
HILDA RAMSEY,

Defendants - Appellees.

On Appeal from the United States District Court for the
Southern District of Florida

BEFORE: WILLIAM PRYOR and MARTIN, Circuit Judges, and DUFFEY,* District Judge.

BY THE COURT:

Appellants' "Motion for Ruling on Entitlement to Attorneys' Fees and Motion to Remand to the District Court Determination of Attorneys' Fees Amount," is GRANTED IN PART and DENIED IN PART. The Court finds Appellants to be entitled, pursuant to 29 U.S.C. § 216(b), to appellate attorney's fees, including fees incurred in the Florida Supreme Court proceedings, only as to Appellee Sue Ann Ramsey. Appellants' motion to remand, construed as a motion to transfer

* Honorable William S. Duffey, Jr., United States District Judge for the Northern District of Georgia, sitting by designation.

to the District Court consideration of the reasonable amount of appellate fees to be awarded, is GRANTED. *See* 11th Cir. R. 39-2(d).

Appellants' "Motion to Tax Costs," requesting \$655.00 in taxable costs against Appellee Sue Ann Ramsey and Defendant Hilda Ramsey, jointly and severally, is GRANTED IN PART, DENIED IN PART, AND DENIED IN PART WITHOUT PREJUDICE.

The Court finds Appellants to be entitled to taxable costs only as to Appellee Sue Ann Ramsey. Appellants' request for the \$500.00 appellate docketing fee is GRANTED. Appellants' request for their \$5.00 appellate filing fee is DENIED WITHOUT PREJUDICE to their ability to seek this fee in the district court. *See* Fed. R. APP. P. 39(e)(4). Appellants' request for the \$150.00 Supreme Court of Florida filing fee as a reimbursable taxable cost is DENIED. To the extent that Appellants are requesting reimbursement of the \$150.00 filing fee as a statutory expense, pursuant to Section 216(b), their request is hereby GRANTED as to Appellee Sue Ann Ramsey.

11TH CIRCUIT DOCKET NO: 16-10552

IN THE 11th CIRCUIT COURT OF APPEALS

JUAN A. SALINAS & LUCILA FUENTES

Plaintiffs-Appellates,

v.

SUE ANN RAMSEY & HILDA RAMSEY

Defendants-Appellees.

**PLAINTIFFS-APPELLATES' MOTION FOR RULING ON
ENTITLEMENT TO ATTORNEYS' FEES AND MOTION TO REMAND
TO THE DISTRICT COURT DETERMINATION OF ATTORNEYS' FEES
AMOUNT**

Pursuant to the Federal Rules of Appellate Procedure, Plaintiffs- Appellates, through the undersigned, move for entry of an order regarding the above-described motion and as grounds states:

1. This matter sounds under the Fair Labor Standards Act and Plaintiffs-Appellates have prevailed on appeal with respect to the claims concerning the appeal.
2. This case was before the Supreme Court of Florida for review of a question of Florida law certified by the United States Court of Appeals for the Eleventh Circuit on May 2, 2017.

3. On January 25, 2018, the Supreme Court of Florida answered the Eleventh Circuit's certified question and returned an answer in favor of Plaintiffs-Appellates finding that "...all post-judgment discovery efforts aimed at collecting such a judgment must occur—and may be compelled—within twenty years of entry of the judgment."
4. Thereafter, on February 5, 2018, the United States Court of Appeals for the Eleventh Circuit remanded the instant action to the District Court for proceedings consistent with the ruling finding that Plaintiffs-Appellates' "motion to compel post-judgment discovery was timely." [P.3].
5. As such, Plaintiffs-Appellates are entitled to attorneys' fees regarding those fees accrued in relation to this appeal, the certified question brought before the Supreme Court of Florida, and all related work.
6. This Court should enter an Order entitling Plaintiffs-Appellates to attorneys' fees sought in relation to this appeal, to the certified question brought before the Supreme Court of Florida, and all related work and remand determination of the amount of such fees to the district court below for assessment.
7. It would benefit judicial economy to grant this Motion so that the district court can determine all appellate fees when the Plaintiffs-Appellates later re-file their fee motion in the district court.

8. This Motion seeks an Order establishing entitlement to fees in relation to the appeal, the certified question brought before the Supreme Court of Florida, and all related work.

MEMORANDUM OF LAW

Pursuant to 29 USC 216(b), a prevailing plaintiff-employee is entitled to recover reasonable attorney fees from the defendant-employer jointly and severally. Section 216(b) makes the award of fees to prevailing plaintiffs mandatory. Since the courts ultimately utilize their own knowledge and experience to assess a reasonable fee, pursuant to *Norman v. Housing Authority of Montgomery*, 836 F.2d 1292 (11th Cir. 1988), the undersigned would request that this Court allow the District Court to determine any attorneys' fees sought in relation to the instant appeal, the Certified Question asked to the Supreme Court of Florida, and all related work. It would benefit judicial economy to grant this Motion so that the District Court can determine all Appellates' fees (along with litigation fees) should Appellates file a fee motion in the District Court. 11th Cir. R. 39-2(d) permits Appellates to request this Court to transfer a determination of the attorneys' fees amount to the District Court.

WHEREFORE THE PLAINTIFFS-APPELLATES MOVE THIS COURT TO ENTER AN ORDER ENTITLING PLAINTIFFS-APPELLATES TO ATTORNEYS' FEES IN RELATION TO THE INSTANT APPEAL, THE

CERTIFIED QUESTION BROUGHT BEFORE THE SUPREME COURT OF
FLORIDA, AND ALL RELATED WORK, AND ENTER AN ORDER
ALLOWING THE DISTRICT COURT TO DETERMINE THE AMOUNT OF
ATTORNEYS' FEES IN RELATION TO THE APPEAL, THE CERTIFIED
QUESTION BROUGHT BEFORE THE SUPREME COURT OF FLORIDA,
AND ALL RELATED WORK.

SALINAS, ET AL. V. SUE ANN RAMSEY, ET AL. / 16-10552

CERTIFICATE OF INTERESTED PERSONS

Pursuant to Rule 26.1-1 of the Eleventh Circuit Rules and Rule 26.1 of the Federal Rules of Appellate Procedure, Plaintiffs-Appellates, certify that the following persons or entities may have an interest in the outcome of this appeal:

1. Abrams Anton, PA – Former Counsel for Appellees
2. Adalberto Jordon, United States District Judge – United States District Judge
in Original Proceeding
3. Berger Singerman LLP - Counsel for Appellees
4. Daniel Feld, Esq. –Former Counsel for Appellate
5. Hilda Ellen Ramsey, Deceased - Co-Defendant in Underlying Action
6. J.H. Zidell, Esq. – Counsel for Appellate
7. J.H. Zidell, P.A. – Counsel for Appellate
8. Joshua H. Sheskin, Esq. – Former Counsel for Appellate
9. Rivkah Jaff, Esq. - Counsel for Appellate
10. Neil Tobak, Esq. - Counsel for Appellate
11. Juan A. Salinas - Appellate
12. Kathleen M. Williams, United States District Judge – United States District
Judge Whose Decision on Underlying Action is Being Appealed
13. Lara O'Donnell Grillo, Esq., - Counsel for Appellees

14. Lucila Fuentes – Appellate
15. Peter R. Siegel- Former Counsel to Appellees
16. Ramsey Design Company, Inc. – Appellee's Company
17. Sue Ann Ramsey – Appellee

Respectfully Submitted,

J. H. ZIDELL, P.A.
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By: s/ Rivkah F. Jaff
Rivkah F. Jaff, Esquire
Florida Bar No.:107511

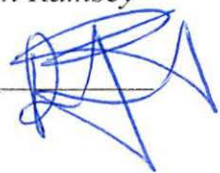


CERTIFICATE OF SERVICE

The undersigned certifies that a copy hereof has been furnished by U.S. Mail
(and electronically) on this 7th day of February, 2018, to:

LARA O'DONNELL GRILLO, ESQ.
BERGER SINGERMANN LLP
1450 BRICKELL AVENUE, SUITE 1900
MIAMI, FLORIDA 33131
TELEPHONE: 305-714-4393
FAX: 305-714-4340
Counsel for Appellee Sue Ann Ramsey

By: s/ Rivkah F. Jaff
Rivkah F. Jaff, Esquire
Florida Bar No.: 107511

 2/7/18

CERTIFICATE OF COMPLIANCE AND CONFERRAL

I hereby certify that 14 point Times New Roman font was used throughout this document and that 996 words are extant herein. Appellee's counsel, Lara O'Donnell Grillo, Esq., indicated that she lacks authority to convey a position on the fees motion at this time and further, understands her appointment in this matter to have concluded, but is seeking clarification from the Court.

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